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Chairman: Mr. Wenaweser ..... (Liechtenstein)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 3.10 p.m.

Agenda item 109: Human rights questions:

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (A/57/134, 138, 140, 182, 205 and Add.1, 274, 275, 277, 283, 311 and Add.1, 323, 356, 357, 369, 371, 384, 385, 394, 446 and 484)

(c) Human rights situations and reports of special rapporteurs and representatives (A/57/230, 284, 290 and Corr.1, 292, 309, 325, 326, 345, 349, 366 and Add.1 and 433; A/C.3/57/5)

(e) Report of the United Nations High Commissioner for Human Rights (A/57/36 and 446)

1. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders), introducing her report (A/57/182), said that it contained an overview of the regional consultations she had attended since the beginning of her mandate. Concerns raised by human-rights defenders and their organizations and the Special Representative's dialogue with Governments had formed the basis for the recommendations contained in paragraphs 88-104 of her report. A regional approach had enabled her to emphasize States' responsibilities under both regional and international human-rights instruments for the protection of human rights defenders, with an emphasis on regional specificities. Considerable progress had been made in discussions with the Inter-American Commission on Human Rights and she had also established contacts with the African Commission on Human and People's Rights and the Organization for Security and Cooperation in Europe.

2. In Africa, human-rights defenders in many countries were constantly challenged by human-rights violations, including those resulting from armed conflict. Their search for accountability for past abuses and their struggle for democratic rights had made them subject to repression by States and other actors. Defenders remained optimistic, however, aware of their crucial role in building peace.

3. In Latin America, there had been a dramatic increase in threats to life, liberty and physical security in several countries. The military had encroached upon political life, impairing the accountability and transparency of public institutions. Human-rights defenders had been attacked and defamed for attempting to ensure respect for human-rights norms in national-security policies and practices. Many attributed growing poverty and social exclusion to the negative impact of economic policies, maintaining that free-trade agreements had hampered protection of social and economic rights.

4. In Asia, struggles for self-determination and movements for democracy often formed the backdrop for the work of human-rights defenders. National-security laws undermined the protection of human rights and were used to attack and punish human-rights monitors, as well as lawyers, journalists and human-rights activists. The adoption of anti-terrorism laws and strategies that eroded human-rights norms had only increased concerns in that regard.

5. In the Middle East and the Euro-Mediterranean region, freedom of association was a major concern. "GONGOs" (associations created and controlled by the Government) were used to publicly attack the credibility of genuine non-governmental organizations. A general climate of fear was generated by intelligence agencies by means of arrests, interrogation and surveillance.

6. Women human-rights defenders were more vulnerable to social discrimination and faced gender-specific risks owing either to the issues with which they dealt, or to the environment in which they worked.

7. A major strategy that human-rights defenders proposed to adopt was the strengthening of regional coalitions and support networks. They recommended that Governments should institutionalize arrangements for the protection of human-rights defenders and cease using tactics to undermine their security and attack their legitimacy.

8. Although protection measures had been adopted in some countries, they had failed to inspire confidence owing to the weakness and lack of independence of institutions. Creating exceptions to the rule of law through special security or anti-terrorism legislation had undermined the ability of the judicial system to prevent the State from arbitrarily eroding human rights. The imperative of security would not be served by violating human rights.

9. It was a matter of deep concern that human-rights defenders were sometimes forced to seek refuge outside their countries. The provision of safe havens and the safe return of defenders required financial and political support, as well as the combined efforts of the international community, United Nations human-rights mechanisms and regional human-rights mechanisms.

10. Consultations with human-rights defenders and Governments were an important aspect of her mandate, and she appreciated the cooperation that had been extended to her in that regard. Timely responses to communications sent to Governments were, however, also vital since they could critically affect the life, liberty or security of defenders. Governments should also be urged to give favourable consideration to her requests for invitations for in situ visits.

11. **Mr. Roshdy** (Egypt) said that his delegation agreed with the Special Representative's supposed conclusion, in paragraph 73 of the report (A/57/182), that the Israeli occupation was a source of regular violations of human rights and international humanitarian law. Yet reference was made to "abuses committed by the Palestinian Authority" when the occupying force was not mentioned by name.

12. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, said that the report bore witness to the difficult climate in which many human-rights defenders operated, as well as the vital importance of their work at times when political or security concerns were particularly acute. The Special Representative might elaborate further on the specific situations of women human-rights defenders and defenders belonging to ethnic or indigenous minorities. She should also suggest measures that might be used to reverse the spread of "GONGOs". Further information on cooperation under way with the Council of Europe or the Organization for Security and Cooperation in Europe would be appreciated. Her delegation also wondered whether enhanced regional cooperation increased possibilities for in situ visits and enhanced dialogue with Governments. It would also appreciate further information on her contacts with national human-rights mechanisms, including any suggestions for enhancing cooperation. Lastly, the Special Representative might comment on changes she had observed in the situation of human-rights defenders since the terrorist attacks on the United States of America on 11 September 2001.

13. **Mr. Vigny** (Switzerland) said that it was vital to revise recently enacted security laws and measures that hampered the protection of human rights. Given the lack of consensus on the issue of international funding for non-governmental organizations, the Special Rapporteur might usefully formulate recommendations in that regard, in line with the spirit of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

14. His delegation supported the idea of holding dialogue with other parties, including guerrilla movements or armed opposition groups which Governments claimed were responsible for protecting human rights in areas of armed conflict. Experience with the issue of anti-personnel landmines had demonstrated that such dialogue could yield positive results.

15. **Mr. Hussain** (Pakistan) said that his delegation concurred with the Special Representative's conclusions concerning the situation of human-rights defenders in Asia, which held particularly true for one neighbouring country. "GONGOs" undermined and politicized dialogue within the Commission on Human Rights; the Special Representative might usefully make recommendations in that regard.

16. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders) said that she always endeavoured to be objective, which was why she took care not to cite countries by name. As was clear from its context, the paragraph cited by the representative of Egypt formed part of a report of discussions held in the region; it did not necessarily reflect her own position.

17. She had made it a practice to pay special attention to the work of women human-rights defenders because of the gender-specific risks they faced. It was frequently alleged that their freedom of movement was restricted and that they even lost the support of their families. The best protection was afforded by creating an environment in which women could work in freedom and security. To that end, it was necessary to institutionalize a "zero-tolerance policy" towards violence against women.

18. Human-rights defenders sought support from the people whose rights they were seeking to promote. The more marginalized and remote the community, the

more difficult it became for them to offer such support, as in the case of ethnic or indigenous minorities.

19. Governments were becoming increasingly preoccupied with their international image and its impact on their relationship with donors. They had thus created "GONGOs" to combat the exposure by genuine non-governmental organizations of their human-rights records. That phenomenon was a major irritant in the work of human-rights defenders, deflecting energy and resources from the task at hand.

20. With regard to the regional approach she had adopted, her aim was to design appropriate frameworks with regional mechanisms for joint initiatives. To that end, she had, inter alia, established initial contacts with the Office of Democratic Institutions and Human Rights within OSCE. She was also aware of the important potential of national human-rights institutions; a mechanism for the protection of human-rights defenders should be clearly incorporated in their mandates. She would seek every opportunity to improve cooperation with national human-rights institutions.

21. Since the events of 11 September 2001, a growing number of countries had been adopting legislation that fell far short of international human-rights norms. She had received a number of reports of attacks against defenders, including arbitrary prosecution and arrest. Media laws in some countries had been amended to criminalize the reporting of statements made by so-called "terrorists" and such laws were being used to target peaceful activists. Elsewhere, opposition groups had been labelled "terrorists" and ordinary forms of civil disobedience had been defined as "terrorism". New offences had also been created to restrict the right of assembly, and normal legal guarantees governing periods of detention without trial had been suspended. Human-rights defenders now found it more difficult to gain access to information in cases of arbitrary arrest and detention, making the monitoring of State practices more difficult.

22. The idea of holding dialogue with other parties, including guerrilla movements or armed opposition groups had been proposed by participants at a consultation in Latin America; her own position on the matter had not been concretized. Her mandate did allow her to consult with Governments and "any other actors" for the protection of human-rights defenders, and the development of a methodology and framework for such dialogue would indeed be useful.

23. **Mr. Sookocheff** (Canada) said that he shared the Special Representative's concern regarding the use by some States of "rule by law" to suppress those non-governmental organizations that only sought to promote the rule of law. The Special Representative should indicate whether she planned a study of the impact of national-security measures on the work of human-rights defenders that might lead to the formulation of general recommendations for use by all Governments.

24. **Ms. Barghouti** (Observer for Palestine) said that she was not convinced by the Special Representative's justification for failing to mention Israel by name in paragraph 73 of the report.

25. **Ms. Jilani** (Special Representative of the Secretary-General on Human Rights Defenders) said that she hoped that she would be allocated the necessary resources to conduct a study along the lines suggested by the representative of Canada, with a view to formulating strategies for the better protection of defenders living under legal frameworks not conducive to implementation of the Declaration.

26. In response to the Observer for Palestine, she could only reiterate that, in the paragraph in question, she had merely relayed concerns raised by participants at a regional consultation in the Middle East and the Euro-Mediterranean region.

27. **Mr. Hossain** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan), introducing his eighth report (A/57/309), said that the Bonn Agreement, concluded 11 months earlier, had spelled out a transitional process through which Afghanistan was to be restored to all its people. The first phase involved convening of an Emergency Loya Jirga (Grand National Assembly) in June 2002 to establish a transitional administration and to delineate the process for convening a Constitutional Loya Jirga within 18 months. Free and fair elections were envisaged within two years, by June 2004.

28. The convening of the Emergency Loya Jirga within the time frame established in the Bonn Agreement was a milestone marking the beginning of a process of resolving internal differences through political means rather than violence. Concerns had

been expressed about the questionable backgrounds of some of the persons included in the Loya Jirga, but President Karzai had emphasized that, keeping the imperative of justice in sight, peace must be established first. The number-one priority remained the replacement of the rule of the gun by the rule of law, which required the creation of a national police force as well as internal security and defence forces. The country must disarm, and arms held by many groups under local commanders must be collected.

29. He had issued specific warnings in October and November 2001 of the need for special measures to protect civilians, but some reprisal killings had taken place. The Special Rapporteur on extrajudicial, summary and arbitrary executions, who had just returned from Afghanistan, had reported mass graves in northern areas where victims of such reprisals were said to be buried, a matter which warranted an international commission of inquiry. The Afghan Independent Human Rights Commission should investigate reports of violence against minorities and recommend appropriate follow-up action, with the fullest support of the Transitional Administration. Its capacity to take measures against such violence, however, was clearly constrained by the absence of an effective national police force or local law-enforcement mechanisms. The process of building a national army and police force must be accelerated, and in the meantime, the International Security Assistance Force, currently deployed only in and around Kabul, should be expanded and deployed wherever needed.

30. Concerning the plight of prisoners, the overcrowding, malnutrition and disease reported in Sheberghan prison had been alleviated somewhat, and the further release of groups of prisoners would also help. In the course of his most recent visit, he had received reports of illegal detentions for purposes of extortion by local commanders, which had been brought to the attention of the authorities.

31. The removal of legal barriers to employment and education for women had shown results. Access to education for girls had improved greatly, although pockets of opposition to female education had led to attacks on some girls' schools.

32. Afghanistan was one of the countries most severely affected by mines and unexploded ordnance, and the problem had been exacerbated by recent military activity. The Government had ratified the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, and had appealed for assistance in becoming free of landmines in five years.

33. There had been serious delays in the commitment of funding to support the reconstruction of Afghanistan, and as a result vital programmes were in serious jeopardy. It was imperative for the pledges made at the International Conference on Reconstruction Assistance to Afghanistan held in Tokyo to be met fully and in a timely manner. Assistance must reach remote areas and vulnerable sections of the population. The pledges of $4.5 billion over five years appeared to have been based on cost estimates of $40 to $80 per capita annually for post-conflict recovery, whereas in the Balkans and East Timor, aid had ranged from $200 to $300 per capita, which would translate into an annual figure of at least $5 billion for Afghanistan. Indeed, the World Bank and the Asian Development Bank had given estimates of $12 to $15 billion for the five-year period, while the Afghan Finance Minister had estimated up to $20 billion. Failure to provide the critical minimum resources could jeopardize the transition, and it would be difficult if not impossible to realize the goals of the Bonn Agreement.

34. It was important to involve all sectors of the Afghan people in the transition; the Constitutional Commission and the Judicial Commission could engage in broad consultations. The Independent Human Rights Commission could harness the energy of young people and returnees as peace volunteers, which had proven very effective during the transition in South Africa. To ensure Afghan ownership of the process, institution-building should be inclusive and with maximum participation. The Transitional Administration and the United Nations Assistance Mission in Afghanistan should work to increase awareness of the steps being taken to establish a broad-based, gender-sensitive, multi-ethnic and fully representative government. A pro-active role for the national media, especially radio and television, was of critical importance in dispelling the impression that political concerns prevailed over human rights and that peace was being pursued at the expense of justice. Strategic national decisions must be taken in sensitive areas such as accountability for past human rights abuses, and increasing public awareness could help to build a national consensus.

35. **Mr. Bazel** (Afghanistan) paid tribute to the courage the Special Rapporteur had shown in reporting on the plight of the people of Afghanistan since the beginning of his mandate in 1998, despite enormous obstacles. With regard to his report (A/57/309), his delegation would like to make some observations.

36. The report did not mention the presence of international monitoring groups at the Emergency Loya Jirga held in June 2002, nor did it mention the fact that President Karzai had been elected by secret ballot in that assembly, a major democratic achievement. It also had not mentioned that the rights of freedom of assembly and association, freedom of opinion and expression and freedom of the press had been restored.

37. In paragraph 2, the term "Northern Alliance", a term invented by the media, had been used, rather than the correct name, "United Front". More precision was also needed on the role and mandate of the Judicial Commission, as it was the President and the Cabinet which were vested with the power of establishing the judicial organs. He also wished to make it clear that the new constitution, referred to in paragraph 35, had not yet been drafted.

38. A new era had begun in the political life of his country with the demise of the Taliban, and it was time to reformulate the involvement of the United Nations in the situation of human rights in Afghanistan. Its focus should shift to technical cooperation, legal assistance and capacity-building for legal and judicial institutions.

39. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, asked how the Transitional Administration was meeting the challenge of balancing Shariah law with more moderate views. The establishment of the Independent Human Rights Commission was very welcome, and she inquired about the relationship of the Special Rapporteur with that body. Although women had been represented in the Loya Jirga and there were currently three women members of the Government, a great deal of progress was still needed in many parts of the country to ensure women's human rights. She asked the Special Rapporteur to elaborate on reports received that women had been detained for "social code" violations.

40. The mass graves reportedly found at Sheberghan prison and elsewhere raised the issue of how war crimes would be dealt with. The European Union believed that the United Nations should have a key role in any investigation. It would also like to hear more about any progress being made in drafting the new constitution, fighting drug production and promoting crop substitution, the security situation and the administration of justice.

41. **Ms. Boniver** (Italy) said that she had returned from her recent visit to Afghanistan with the impression that reconstruction assistance was uppermost in people's minds and direct financing was a priority. Poverty and lack of economic recovery would hinder the democratic process and the protection of human rights. The establishment of the Independent Human Rights Commission, with a woman as its head, was an encouraging development, but she was concerned at reports that a woman magistrate had been dismissed for not wearing a veil and would like to receive clarification.

42. **Mr. Raduit** (Switzerland) said that he had heard troubling reports that the Chairperson of the Independent Human Rights Commission had been brought before the courts for blasphemy, and he would like to know what measures were being taken to ensure her security. President Karzai must honour his promise to prevent intimidation of human rights workers. His delegation also would like to know if any further information was available on the reported massacres at Mazar-i-Sharif.

43. **Mr. Hossain** (Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan), in reply to the representative of Afghanistan, said that the convening of the Emergency Loya Jirga within six months had been a tremendous achievement, and the criticisms of the process conveyed in his report were in no way intended to detract from it. The reality of the situation, however, was that after 20 years of conflict and four years of devastating drought, which had created millions of refugees and internally-displaced persons, the situation of human rights was still difficult. While formal freedoms had been restored under the Bonn Agreement and with United Nations monitoring, Afghanistan was still a "society in process", and in some places the rule of the gun prevailed. There was tremendous diversity in the country, yet he was sure that all rights would be restored to all its citizens through the process that had begun with the Loya Jirga.

44. The President would give final approval to the judicial system, but the Judicial Commission had the

responsibility to design that system. The Constitutional Commission responsible for drafting the new constitution had just been formed, and, with expert assistance from the European Union, had begun a series of targeted steps that should result in the convening of a Constitutional Loya Jirga within the 18-month time frame set under the Bonn Agreement.

45. The representative of Denmark had raised the issue of finding a balance between Shariah law and a liberal democratic State, an issue many societies were facing. No uniform solution had been found in Muslim societies, but the matter was on the agenda of the Constitutional Commission.

46. The Chairperson of the Independent Human Rights Commission had been cleared of the blasphemy charges against her, but the security situation was still such that she was receiving special protection. Women were far more visible in government service, and the Ministry of Women's Affairs had taken a pro-active role in increasing their participation.

47. With regard to the massacres at Sheberghan prison, he had briefed the Security Council in November 2001 about the possibility of massacres when territories began to change hands, and had urged that the international forces should at least ensure that prisoners were taken instead of being shot. Yet reports of massacres at Sheberghan and elsewhere were surfacing; the massacres had not been prevented despite the best intentions. An inquiry should be conducted to ensure that they were not repeated. The International Committee of the Red Cross had become involved in ensuring that the Geneva Conventions were observed in places of detention, and the Independent Human Rights Commission was also mandated to look into such matters.

48. The Independent Human Rights Commission was almost operational and President Karzai had pledged to give it his full support in the enforcement of its decisions. Within the framework of the Bonn Agreement, the Commission would play a vital role in restoring the human rights of the Afghan people. The international community, including the European Union, could help it fulfil its mandate by providing the population with access to electronic media, since, in a country with high levels of illiteracy, it was an effective means of promoting human-rights education programmes. In addition, young Afghans should be encouraged to spread the human-rights message amongst their peers.

49. With reference to narcotics, he stressed that international support was needed in order to provide Afghan farmers with sustainable alternative livelihoods. In that regard, law-enforcement strategies would be effective only when farmers realized that the cultivation of illegal crops was not the only way of making a living.

50. The rule of the gun should be replaced by the rule of law. However, it would be impossible to disarm and disband armed groups unless a national police force was set up to oversee the operation, and he therefore appealed for increased international assistance to accelerate that process. Rebuilding the justice system was also vital: offenders currently detained in Kabul prison could not be brought to trial and sentenced owing to a lack of functioning courts.

51. In accordance with the Bonn Agreement, a Constitutional Commission had been created in order to assist the Constitutional Loya Jirga with the adoption of a new constitution. The Commission was expected to begin its work within the next 12 months.

52. In answer to the question put by the representative of Italy, he said that reconstruction was a priority, since restoring the country's infrastructure would create jobs and regenerate the economy — which, in turn, would reduce the dependency on humanitarian assistance. It was now imperative to rethink the critical minimum assistance necessary to achieve that goal, and he made an earnest appeal to the international community to continue to support the reconstruction in Afghanistan. International assistance could make a real difference to the lives of the millions of Afghan citizens, particularly women, who had been deprived of their basic human rights.

53. **Ms. Pizarro** (Special Rapporteur of the Commission on Human Rights on the human rights of migrants), introducing her report (A/57/192), said that the international legal framework of her mandate was broad and varied, since all the international human-rights instruments were applicable to migrants. The new International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families would make a valuable contribution to that framework, and she urged all States to ratify it.

54. Since 1999, pursuant to the resolutions establishing her mandate, she had engaged in dialogue with Governments regarding individual cases or situations involving the human rights of migrants and had paid five official visits.

55. She observed that migration made a significant contribution to the social, economic and cultural development of countries of origin and receiving countries — in some countries migration represented the second largest source of foreign currency — but stressed that migrants should not be treated as part of a business deal, since the human cost of such activities was significant.

56. The vast majority of cases brought to her attention had involved abuses of rights in the area of employment. Employers did not pay migrant workers fair wages, and sometimes changed the terms of employment contracts once the employee had arrived in the receiving country. Moreover, illegal migrants were even more prone to exploitation since, faced with the threat of deportation, they tended to accept jobs where the conditions were tantamount to slavery.

57. Female migrants dominated the informal labour market and were particularly vulnerable to exploitation. Many of them were subjected to violence and sexual abuse and their employers often confiscated their documents as a means of coercion and pressure. Fear, lack of documentation, the debt bondage to which they were subject in the country of origin in order to pay for the journey, lack of information in the country of origin, fear of being reported to the authorities and the lack of adequate medical, psychological and legal assistance were common among female migrants.

58. With regard to unaccompanied minors, she was particularly concerned about three issues: their detention, their expulsion from the receiving country and the question of reuniting them with their families. Many States were still reluctant to make their specific needs a priority.

59. A good many countries had not come up with an effective strategy to combat the spread of illegal migrant-smuggling networks or had not made trafficking a punishable offence. The needs of migrants, particularly women and children, and the difficulties they encountered in obtaining legal employment made them easy targets for the perpetrators of such crimes. Most States were not parties to the United Nations Convention against Transnational Organized Crime and the two supplementary protocols on trafficking and smuggling, and the involvement of public officials in such activities made combating them all the more difficult.

60. In order to prevent irregular migration and the smuggling of persons, it was vital to engage in an in-depth discussion about migration management. Effective policies to prevent those phenomena, through the granting of legal passports and the dissemination of information regarding proper migration channels, were also required. Countries of origin should provide adequate consular protection for their nationals and undertake to promote their economic, social and cultural integration, and should adopt legislative measures to punish the perpetrators of transnational organized crime. In that connection, however, and in the aftermath of the events of 11 September 2001, she appealed to States to refrain from wrongly equating migrants with terrorists. The protection of the human rights of migrants and an ordered system of migration management were not incompatible with the coordination of the security forces and the fight against terrorism.

61. In conclusion, she stressed that Governments needed to engage in dialogue regarding the protection of the human rights of migrants and that the international community could make a significant contribution to the debate at both the national and the international levels.

62. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, asked for clarification as to the respective responsibilities of countries of origin and destination in protecting the human rights of migrants whose residence in the country of destination had been found to be illegal. She asked for further details about the elaboration of effective policies to prevent illegal migration and for suggestions as to how countries of origin and destination could cooperate in that regard. Lastly, she inquired whether the Special Rapporteur envisaged a special role for international organizations in the context of cooperation to prevent illegal migration.

63. **Ms. Acosta** (Mexico) said that her delegation was particularly interested in the Special Rapporteur's recent visits to Mexico and the border between Mexico and the United States. Those visits had served as a catalyst in the national debate on the human rights of migrants, which had gathered momentum in various

forums. She hoped that the Special Rapporteur s report would provide Mexico with suggestions as to how to move from a discussion of the problem to the design of public policies to address it.

64. **Mr. Hussain** (Pakistan) said that his delegation would like the Special Rapporteur, in her future work, to devote some attention to various issues that had come to light in the aftermath of the events of 11 September 2001. The first of those issues was the ethnic and religious profiling of migrant communities on the basis of their country of origin: Islamic migrants and, more generally, those of Arab or Asian origin had been the subject of extreme persecution in terms of administrative and security measures and it was therefore necessary to examine the implications of security concerns for the human rights of migrants. Secondly, there was very little authoritative information about the usefulness of migrant communities' contribution to the life of countries of destination. Lastly, his delegation would like the Special Rapporteur to engage in an exchange of information with the Special Rapporteur on contemporary forms of racism.

65. **Ms. Pizarro** (Special Rapporteur of the Commission on Human Rights on the human rights of migrants), responding to the questions raised by the representative of Denmark, said that, in an ideal world, local development in countries of origin to eradicate social exclusion would prevent illegal migration from taking place. Countries of origin should take responsibility for the illegal migratory activities of their nationals and take steps to prevent such activities by, inter alia, adopting legislation to penalize the perpetrators of human trafficking and smuggling, launching information campaigns about the dangers of illegal migration and the need for proper documentation and, above all, adopting measures to punish unscrupulous public officials who took advantage of migrants' vulnerability.

66. Countries of destination must fulfil their commitments under international human-rights instruments, particularly in the area of non-discrimination on grounds of race and religion, and refrain from summarily describing persons of certain religions or ethnicities as terrorists. In addition, those countries must design and implement integrated migration-management strategies, work in collaboration with countries of origin on deportation policies, in particular with regard to unaccompanied minors, and take steps to ensure that employers paid migrant female domestic workers fair wages and social-security contributions.

67. The support of the international community was required in order to implement programmes to prevent illegal migration. There was widespread ignorance regarding the need to address the issue of migration from the human-rights angle rather than from the security angle, and in that connection the international community must embark upon activities to raise awareness that some forms of migration were no less than contemporary forms of slavery.

68. In response to the concerns raised by the representative of Pakistan, she reminded the Committee that she had already made several statements regarding the events of 11 September in which she had insisted on the need to refrain from associating migrants with terrorists: although it was vital to coordinate national efforts to safeguard human security, those efforts must not result in racism and religious discrimination against non-nationals.

69. In closing, she recalled that the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance had recognized the specific situation of migrants and drawn attention to the need to protect their human rights.

70. **Ms. Løj** (Denmark), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey, and, in addition, Iceland, said that the main focus of her statement would be on torture and the abolition of the death penalty. Torture was one of the most outrageous violations of human dignity, not only for the victim but also for the perpetrators, and its prevention and eradication were a strongly-held policy of all European Union member States. In April 2001, the European Union had adopted guidelines for a policy towards third countries on torture and other cruel, inhuman and degrading treatment or punishment. It strongly supported the draft resolution on torture submitted by Iceland and Costa Rica's proposal for an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was intended to establish a preventive system of regular visits to places of detention.

71. The Universal Declaration of Human Rights had established an internationally-recognized set of standards that applied to all countries and unconditionally prohibited all forms of torture. In view of the continuing reports of incidents of torture throughout the world, the European Union urged all States to respect the Declaration and strongly encouraged all Governments to allow the Special Rapporteur on torture free access to the countries he intended to visit and to follow up on his recommendations appropriately. It also urged all States to become parties to the Convention against Torture as a matter of priority and to support the adoption of the draft optional protocol by the General Assembly.

72. The prohibition of torture was absolute, even in the current fight against terrorism. The Special Rapporteur had found it necessary to examine various anti-terrorist measures in the light of the international protection of human rights in his current interim report (A/57/173), which indicated a disturbing trend. Torture was generally inflicted in secret and despite official denial. Consequently, allegations of torture should be investigated and prosecuted diligently to avoid establishing a culture of impunity and indifference. The United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment described the measures that should be taken and was an important source of inspiration for lawmakers and law-enforcement agencies.

73. All States should ensure that an appropriate infrastructure was created to enable victims of torture to obtain redress and receive medical and social rehabilitation.

74. The obligation to eradicate torture was incumbent on Governments and government agencies, but special tribute should be paid to non-governmental organizations and members of civil society working to bring cases of torture to the attention of the international community and assist victims. Hence, human-rights defenders deserved respect and protection and should not suffer for denouncing torture and exposing human-rights violations.

75. Torture was rarely a deliberate State policy and often reflected inefficient law enforcement, where it was applied as a general means of intimidation. Thus, an invaluable measure to prevent torture, in addition to the proper training of law-enforcement personnel, was the exposure of places of detention to scrutiny. The mechanism envisaged in the draft optional protocol to the Convention against Torture was a key tool in that regard.

76. The corporal punishment of children was another widespread problem highlighted by the Special Rapporteur on torture. The European Union called upon States to take adequate measures to ensure that the right of children to physical and mental integrity was protected in both the public and the private sphere.

77. Turning to the question of the death penalty, she said the European Union considered, as a matter of policy, that the death penalty was a contravention of the right to life and called for its abolition in order to enhance human dignity and contribute to the progressive development of human rights. The death penalty had been abolished in all its member States. The United Nations had established strict conditions under which the death penalty could be used. In resolutions sponsored by the European Union, the Commission on Human Rights had called on countries that maintained the death penalty to progressively limit the number of offences for which it could be imposed and to establish a moratorium on executions.

78. The global trend was against the application of the death penalty. For instance, the international community had excluded its use when establishing international tribunals with competence to try the most heinous crimes, such as genocide and crimes against humanity. Nevertheless, there had been disturbing developments such as the reinstatement of the death penalty and the lifting of moratoriums and, over the past year, the European Union had broached the issue with various countries.

79. Some particularly cruel forms of execution, such as stoning, caused excessive suffering, and the European Union considered that they not only violated the right to life, but constituted cruel, inhuman and degrading treatment and should be prohibited.

80. In some countries there was still popular support for the death penalty and, while not wishing to interfere with internal democratic processes, the European Union considered that capital punishment tended to foster a casual attitude to the right to life, increasing the level of brutality in society. A State that endorsed the death penalty sent the message that killing was an acceptable way of solving social problems. The argument that the death penalty was a deterrent to

violence and other forms of crime was unacceptable; the risk of being caught was a greater deterrent than the severity of the sentence.

81. No legal system was immune to miscarriages of justice, and a mistake could not be redressed after application of capital punishment, which also denied the possibility of rehabilitation and resocializing, core notions of modern justice systems.

82. The Convention on the Rights of the Child stipulated that capital punishment must not be imposed for offences committed by persons under 18 years of age and the European Union appealed to all States to ensure that the ban was applied universally.

83. The death penalty was often applied against persons suspected of committing particularly abominable crimes when considerable external pressure existed. However, capital punishment should respect all procedural safeguards and never be imposed for non-violent acts. The report of the Special Rapporteur on extrajudicial, summary and arbitrary executions (A/57/138) had highlighted the very serious problems caused by lack of respect for the rule of law when Governments tolerated or engaged in taking people's lives.

84. Violence against women violated their human rights; but domestic violence abounded, even to the extremes of mutilation and murder. Denying women equal rights with men rendered women more vulnerable to physical, sexual and mental abuse. Hence, the empowerment of women was an important means of achieving gender equality, and raising awareness about violence against women was a precondition to eliminating it. The United Nations system should continue to collect all available data on assaults on women, since world-wide dissemination of such information, combined with educational initiatives, was crucial to changing attitudes. States must criminalize all forms of violence against women and girls committed in the name of honour and those deliberately participating in such acts should be brought to justice.

85. **Ms. Viotti** (Brazil), speaking on behalf of the member countries of the Southern Common Market (MERCOSUR) and the associated countries, Bolivia and Chile, said that the strengthening of United Nations mechanisms for the protection and promotion of human rights was of fundamental importance and merited the decided support of all Member States.

86. The countries she represented reiterated their strong condemnation of all forms of terrorism and would continue to support the international community's efforts to eradicate it; nevertheless, they shared the view of the United Nations High Commissioner for Human Rights that it was possible to combat terrorism without violating human rights.

87. The commitment to democracy and the rule of law, as well as the protection of all human rights, was part of the permanent political identity of the members of MERCOSUR and the associated countries. The 1998 Ushuaia Protocol, instituting a commitment to democracy, established that the existence of democratic institutions was an essential condition for the development of MERCOSUR. Thus, the rupture of the democratic order in any State party could lead to the suspension of its right to participate in the integration process.

88. As evidence of their commitment to human rights, the countries she represented were circulating a draft resolution on the strengthening of the rule of law, aimed at helping the growing number of countries desiring to enhance their national legal and judicial systems, which, in turn, provided appropriate remedies for human-rights violations.

89. **Ms. Acosta** (Mexico) said that her Government was making a significant effort to ensure the exercise of human rights and reverse a culture of authoritarianism and impunity. As part of the reforms, it was developing a comprehensive human-rights policy that strengthened partnerships with society and particularly with organizations working to raise awareness of the importance of human rights.

90. To render the change irreversible, it was seeking the contribution of international human-rights organizations, other States and international forums such as the Organization of American States and the United Nations and, over the last two years, it had received 10 missions carried out by representatives of international human-rights mechanisms. Also, the second phase of the technical-cooperation programme with the Office of the High Commissioner for Human Rights was scheduled to commence shortly. The main activities were the elaboration of a situation report and a national human-rights programme, with the participation of all sectors of society. Moreover, in coming months, the Office of the High Commissioner for Human Rights would be establishing a country

representative office in Mexico; it represented an innovative initiative, derived from the Government's wish to have the High Commissioner's support when making such far-reaching changes.

91. At the end of August 2002, President Vicente Fox had announced a comprehensive national human-rights policy, which included the creation of a new inter-ministerial commission, presided over by the Ministry of the Interior. It was a ground-breaking structure since in view of the interdependence and the all-inclusive nature of human rights it involved almost all the departments of the federal Government, and would also involve civil-society organizations in its work.

92. Mexico recognized the contribution made by the multilateral forums, particularly the General Assembly, to defining the policies that States should adopt to ensure the exercise of human rights throughout the world. In the current context, it was increasingly necessary to ensure that human rights were the central focus of the new world agenda, and the General Assembly should stress that the protection of and respect for human rights could not be waived. In order to unite Member States in their commitment to human rights in the fight against terrorism, Mexico was calling for the General Assembly to make a declaration of principle in that respect and to ensure that human rights were a cross-cutting issue of the new world order.

93. Mexico recognized the fundamental role of the Commission on Human Rights as the principal United Nations body in that area. The international community's efforts should focus on strengthening the Commission's mission of protecting the victims of human-rights violations and, during the Commission's next session, Mexico would be seeking the adoption of constructive proposals that went beyond merely improving its working procedures.

94. One of the major achievements of the fifty-seventh session would be the adoption of the draft optional protocol of the Convention against Torture to establish a system of visits to places of detention, which Mexico was co-sponsoring.

95. Proposals designed to protect vulnerable groups, particularly migrants, was one of Mexico's special interests. It hoped that the International Convention on the Protection of the Rights of All Migrant Workers and Their Families could enter into force as soon as possible after the necessary number of ratifications had been received.

96. **Mr. Chuquihuara** (Peru) noted that the priority of human rights on the international agenda had increased significantly in recent decades. National and international principles and standards had been developed which recognized that the individual was the focus of society and the State. Thus the traditional contradictory relationship between human rights and national sovereignty, and between individual freedom and the common good, was being reconciled and transformed into law.

97. Stemming from that recognition, progress had been made towards establishing a multi-tiered protection system which, to an unprecedented degree, made human rights an obligatory reference point in relations between the State and the individual. Today, human rights constituted a universal system of values and an international legal regime, under which there was a clear limit to State authority as defined by respect for the human rights of the individual. Thus, plainly acknowledging that the individual preceded the State and was therefore pre-eminent.

98. Over the past decade, the interrelation between human rights, democracy and the rule of law had underlined the importance of the full realization of human rights — not only civil and political but also economic, social and cultural rights. The legitimacy of democracy was founded on a relationship between the governing and the governed, based on social cohesion and civil participation. Democracy and the rule of law should ensure that the population could enjoy all human rights. Democracy should ensure that the poorest were fully integrated into the political and economic system so as to realize the human rights of the largest sector of the global population. Furthermore, one of the greatest threats to democracy was corruption, which undermined the administration of justice and due process. Peru urged the international community to collaborate in fighting that scourge. In sum, the challenge for the promotion of human rights was to reconcile political wills while respecting their differences; in that way, tangible progress could be made.

The meeting rose at 6.10 p.m.